

**U.S. District Court [LIVE]  
Western District of Texas (San Antonio)  
CIVIL DOCKET FOR CASE #: 5:10-cv-00784-FB**

Eakin v. United States Department of Defense et al  
Assigned to: Chief Judge Fred Biery  
Cause: 05:552 Freedom of Information Act

Date Filed: 09/28/2010  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff****John Eakin**

represented by **John Eakin**  
9865 Tower View Road  
Helotes, TX 78023  
210-695-2204  
PRO SE

V.

**Defendant****United States Department of Defense**

represented by **Dimitri Narciso Rocha**  
U.S. Attorney's Office  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Robert M. Gates**  
*in his official Capacity as Secretary of Defense*

represented by **Dimitri Narciso Rocha**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant****United States Department of the Army**

represented by **Dimitri Narciso Rocha**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**John McHugh**  
*in his official Capacity as Secretary of the Army*

represented by **Dimitri Narciso Rocha**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
09/28/2010		Case Assigned to Chief Judge Fred Biery. CM WILL NOW REFLECT THE JUDGE INITIALS AS PART OF THE CASE NUMBER. PLEASE APPEND THESE JUDGE INITIALS TO THE CASE NUMBER ON EACH DOCUMENT THAT YOU FILE IN THIS CASE. (tm) (Entered: 09/29/2010)
09/28/2010		If ordered by the court, all referrals will be assigned to Magistrate Judge Nancy Stein Nowak (tm) (Entered: 09/29/2010)
09/28/2010	<u>1</u>	COMPLAINT ( Filing fee \$ 350 receipt number 500009100), filed by John Eakin. (Attachments: # <u>1</u> Civil Cover Sheet / Receipt)(tm) (Entered: 09/29/2010)

09/28/2010	<u>2</u>	Summons Issued as to Robert M. Gates, United States Department of Defense, U.S. Attorney and U.S. Attorney General (tm) (Entered: 09/29/2010)
09/30/2010	<u>3</u>	ORDER REFERRING CASE to Magistrate Judge Nancy Stein Nowak for pretrial proceedings including any requests for injunctive relief. Signed by Chief Judge Fred Biery. (rg) (Entered: 09/30/2010)
10/25/2010	<u>4</u>	SUMMONS Returned Executed by United States Department of Defense. (rg) (Entered: 10/26/2010)
10/25/2010	<u>5</u>	SUMMONS Returned Executed by John Eakin. (rg) (Entered: 10/26/2010)
10/25/2010	<u>6</u>	SUMMONS Returned Executed by John Eakin. (rg) (Entered: 10/26/2010)
10/25/2010	<u>7</u>	SUMMONS Returned Executed by John Eakin. United States Attorney's Office served on 9/29/2010, answer due 11/29/2010. (rg) Modified on 10/26/2010 to correct the party served by this Summons. (kh2). (Entered: 10/26/2010)
11/01/2010	<u>8</u>	Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint by Robert M. Gates, United States Department of Defense.. Motions referred to Judge Nancy Stein Nowak. (Rocha, Dimitri) (Entered: 11/01/2010)
11/02/2010		Text Order GRANTING <u>8</u> Unopposed Motion for Extension of Time to Answer. Defendants' shall file their answer or other response on or before December 1, 2010. entered by Judge Nancy Stein Nowak. (This is a text-only entry generated by the court. There is no document associated with this entry.) (mbb) (Entered: 11/02/2010)
11/02/2010		Set/Reset Deadlines: Robert M. Gates answer due 12/1/2010; United States Department of Defense answer due 12/1/2010. (tm) (Entered: 11/02/2010)
11/19/2010	<u>9</u>	Order for Scheduling Recommendations/Proposed Scheduling Order. Plaintiff shall submit a scheduling recommendations/proposed scheduling order to the Court within sixty (60) days after the appearance of any defendant. Signed by Judge Nancy Stein Nowak. (tm) (Entered: 11/22/2010)
12/01/2010	<u>10</u>	ANSWER to <u>1</u> Complaint by Robert M. Gates, United States Department of Defense.(Rocha, Dimitri) (Entered: 12/01/2010)
12/06/2010	<u>11</u>	NOTICE of Attorney Leave by Robert M. Gates, United States Department of Defense (Rocha, Dimitri) (Entered: 12/06/2010)
12/30/2010	<u>12</u>	MOTION to Amend Complaint by John Eakin. (Attachments: # <u>1</u> First Amended Complaint). Motions referred to Judge Nancy Stein Nowak. ***Summons received and being held until ruling on motion.***(tm) (Entered: 12/30/2010)
01/05/2011		Text Order GRANTING <u>12</u> unopposed Motion to Amend Complaint entered by Judge Nancy Stein Nowak. The Clerk is directed to file the proposed First Amended Complaint attached to the motion for leave to amend.(This is a text-only entry generated by the court. There is no document associated with this entry.) (NSN) (Entered: 01/05/2011)
01/05/2011	<u>13</u>	FIRST AMENDED COMPLAINT against Robert M. Gates, United States Department of Defense, United States Department of the Army, John McHugh amending <u>1</u> Complaint filed by John Eakin.(rf) (Entered: 01/06/2011)
01/05/2011		Summons Issued as to John McHugh, United States Department of the Army, U.S. Attorney and U.S. Attorney General (rg) (Entered: 01/07/2011)
01/20/2011	<u>14</u>	Amended ANSWER to <u>13</u> Amended Complaint by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army.(Rocha, Dimitri) (Entered: 01/20/2011)
01/21/2011	<u>15</u>	Scheduling Recommendations/Proposed Scheduling Order by John Eakin, Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army. (Rocha, Dimitri) (Entered: 01/21/2011)
01/27/2011	<u>16</u>	ADVISORY TO THE COURT by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army. (Rocha, Dimitri) (Entered: 01/27/2011)

02/09/2011	<u>17</u>	SCHEDULING ORDER: ADR Report Deadline due by 3/1/2011. Amended Pleadings due by 4/1/2011. Joinder of Parties due by 4/1/2011. Dispositive Motions due by 6/1/2011. Signed by Judge Nancy Stein Nowak. (rg) (Entered: 02/09/2011)
02/24/2011	<u>18</u>	ADR Report Filed – by John Eakin, Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army(Rocha, Dimitri) (Entered: 02/24/2011)
03/28/2011	<u>19</u>	MOTION with Memorandum in Support for Summary Judgment by John Eakin. (Attachments: # <u>1</u> Exhibit List, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit, # <u>7</u> Exhibit F, # <u>8</u> Exhibit, # <u>9</u> Exhibit G, # <u>10</u> Exhibit, # <u>11</u> Exhibit, # <u>12</u> Exhibit, # <u>13</u> Exhibit, # <u>14</u> Exhibit, # <u>15</u> Exhibit, # <u>16</u> Exhibit, # <u>17</u> Exhibit, # <u>18</u> Exhibit, # <u>19</u> Exhibit H, # <u>20</u> Exhibit J, # <u>21</u> mailing envelope). Motions referred to Judge Nancy Stein Nowak. (rg) (Entered: 03/29/2011)
03/28/2011	<u>20</u>	SUMMONS Returned Executed by John Eakin on the Chief, U.S. Army Litigation Division on 1/18/2011. (rg) (Entered: 03/30/2011)
03/28/2011	<u>21</u>	SUMMONS Returned Executed by John Eakin on John McHugh, Secretary of the Army on 1/18/2011. (rg) (Entered: 03/30/2011)
04/07/2011	<u>22</u>	Unopposed MOTION for Extension of Time to File Answer <i>Defendants' Unopposed Motion for Extension of Time to Respond to Plaintiff's Motion for Summary Judgment</i> by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army.. Motions referred to Judge Nancy Stein Nowak. (Rocha, Dimitri) (Entered: 04/07/2011)
04/07/2011	<u>23</u>	NOTICE <i>Vacation Letter</i> by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army (Rocha, Dimitri) (Entered: 04/07/2011)
04/08/2011		Text Order GRANTING <u>22</u> Unopposed Motion for Extension of Time to Answer. Defendants shall have until April 29, 2011 to respond to Plaintiff's Motion for Summary Judgment. Entered by Judge Nancy Stein Nowak. (This is a text-only entry generated by the court. There is no document associated with this entry.) (mbb) (Entered: 04/08/2011)
04/28/2011	<u>24</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>19</u> MOTION for Summary Judgment by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army.. Motions referred to Judge Nancy Stein Nowak. (Rocha, Dimitri) (Entered: 04/28/2011)
04/29/2011		Text Order GRANTING <u>24</u> Unopposed Motion for Extension of Time to File Response. Defendants shall have up to and including May 6, 2011 to respond to Plaintiff's Motion for Summary Judgment. Entered by Judge Nancy Stein Nowak. (This is a text-only entry generated by the court. There is no document associated with this entry.) (mbb) (Entered: 04/29/2011)
05/06/2011	<u>25</u>	Response in Opposition to Motion, filed by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army, re <u>19</u> MOTION for Summary Judgment filed by Plaintiff John Eakin <i>and Defendants' Cross-Motion for Summary Judgment</i> (Attachments: # <u>1</u> Exhibit A – FOIA Req to Dept of Defense, # <u>2</u> Exhibit B – FOIA Req to Army, # <u>3</u> Exhibit C – Chambers signed declaration)(Rocha, Dimitri) (Entered: 05/06/2011)
05/06/2011	<u>25</u>	CROSS-MOTION for Summary Judgment by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army. (moton contained in the response, document #25) Motions referred to Judge Nancy Stein Nowak. (rg). Modified on 5/17/2011 to add document number (rg). (Entered: 05/17/2011)
05/17/2011	<u>26</u>	MOTION to Strike <u>25</u> The Declaration of Dr. Cynthia A. Chambers – Exhibit C – contained in Defendant's Response by John Eakin. Motions referred to Judge Nancy Stein Nowak. (rg) (Entered: 05/17/2011)
05/17/2011	<u>27</u>	Response in Opposition to Cross-Motion, filed by John Eakin, re <u>25</u> CROSS-MOTION for Summary Judgment filed by Defendant United States

		Department of Defense, Defendant Robert M. Gates, Defendant United States Department of the Army, Defendant John McHugh (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(rg) (Entered: 05/17/2011)
05/24/2011	<u>28</u>	REPLY to Response to <u>19</u> Motion, filed by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army, re <u>25</u> MOTION for Summary Judgment filed by Defendant United States Department of Defense, Defendant Robert M. Gates, Defendant United States Department of the Army, Defendant John McHugh, <u>26</u> MOTION to Strike <u>25</u> Response in Opposition to Motion, filed by Plaintiff John Eakin (Attachments: # <u>1</u> Exhibit D, # <u>2</u> Exhibit E)(Rocha, Dimitri) Modified on 5/25/2011. to link to doc #19 (rf). (Entered: 05/24/2011)
05/31/2011	<u>29</u>	REPLY to Response to Motion, filed by John Eakin, re <u>26</u> MOTION to Strike <u>25</u> Response in Opposition to Motion, filed by Plaintiff John Eakin. (rg) (Entered: 05/31/2011)
10/12/2011	<u>30</u>	OPPOSED MOTION to Strike <u>25</u> Defendant's Response in Opposition to Motion for partial summary judgment and Defendant's cross-motion for summary judgment and motion for sanctions, <u>28</u> Reply to Response to Motion by John Eakin. Motions referred to Judge Nancy Stein Nowak. (rg) (Entered: 10/13/2011)
10/26/2011	<u>31</u>	MOTION to Strike Plaintiff's Rule 11 Motion for Sanctions and Memorandum in Opposition to Motion, filed by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army, re <u>30</u> MOTION to Strike <u>25</u> Response in Opposition to Motion, <u>28</u> Reply to Response to Motion,, MOTION to Strike <u>25</u> Response in Opposition to Motion, <u>28</u> Reply to Response to Motion,, filed by Plaintiff John Eakin <i>and Defendants' Motion to Strike Plaintiff's Rule 11 Motion for Sanctions</i> (Attachments: # <u>1</u> Exhibit F, # <u>2</u> Exhibit G)(Rocha, Dimitri) Modified on 10/27/2011, to add relief (rf). (Entered: 10/26/2011)
10/31/2011	<u>32</u>	REPLY to Response to Motion, filed by John Eakin, re <u>30</u> MOTION to Strike <u>25</u> Response in Opposition to Motion, <u>28</u> Reply to Response to Motion, MOTION to Strike <u>25</u> Response in Opposition to Motion, <u>28</u> Reply to Response to Motion, filed by Plaintiff John Eakin. (rg) (Entered: 11/01/2011)
11/23/2011	<u>33</u>	ORDER DENYING as moot <u>31</u> Motion to Strike. Signed by Judge Nancy Stein Nowak. (rg) (Entered: 11/23/2011)
11/28/2011	<u>34</u>	REPORT AND RECOMMENDATIONS re <u>30</u> Motion to Strike, filed by John Eakin, be DENIED; <u>25</u> Motion for Summary Judgment, filed by United States Department of Defense, Robert M. Gates, United States Department of the Army, John McHugh, be GRANTED; <u>19</u> Motion for Summary Judgment, filed by John Eakin, be DENIED; <u>26</u> Motion to Strike filed by John Eakin be GRANTED. Signed by Judge Nancy Stein Nowak. (mailed on 11/28/2011 by certified mail, or sent via electronic transmittal)(rg) (Entered: 11/28/2011)
11/28/2011	<u>35</u>	ORDERED that this case is RETURNED to the district court for all purposes. CASE NO LONGER REFERRED to Magistrate Judge Nancy Stein Nowak. Signed by Judge Nancy Stein Nowak. (rg) (Entered: 11/28/2011)
11/28/2011	<u>36</u>	Certified Mail Receipt #7005 1160 0005 0490 5117 addressed to John Eakin on the RR, Document #34. (rg) (Entered: 11/28/2011)
11/28/2011	<u>37</u>	MOTION to Compel Production, MOTION to Amend Scheduling Order by John Eakin. (rf) (Entered: 11/29/2011)
11/28/2011	<u>38</u>	Memorandum in Support of <u>37</u> MOTION to Compel MOTION to Amend/Correct by John Eakin. (rf) (Entered: 11/29/2011)
12/01/2011	<u>39</u>	Certified mail acknowledgment receipt for magistrate report and recommendations re <u>34</u> Report and Recommendations, as to John Eakin. (rg) (Entered: 12/02/2011)
12/09/2011	<u>40</u>	OBJECTIONS to <u>34</u> Report and Recommendations by John Eakin. (rg) (Entered: 12/12/2011)
12/12/2011	<u>41</u>	OBJECTIONS to <u>34</u> Report and Recommendations – <i>Partial and 40 Response to Plaintiff's Objections to the Magistrate's Report and Recommendation</i> by Robert

		M. Gates, John McHugh, United States Department of Defense, United States Department of the Army.. (Rocha, Dimitri) Modified on 12/13/2011 to create link to document #40 (rg). (Entered: 12/12/2011)
12/13/2011	<u>42</u>	Response in Opposition to Motion, filed by Robert M. Gates, John McHugh, United States Department of Defense, United States Department of the Army, re <u>37</u> MOTION to Compel MOTION to Amend/Correct filed by Plaintiff John Eakin (Rocha, Dimitri) (Entered: 12/13/2011)
12/16/2011	<u>43</u>	REPLY to <u>42</u> Defendant's Response in Opposition to Motion to Compel and to Amend Scheduling Order, and to <u>41</u> Objection to Report and Recommendations, by John Eakin. (rg) (Entered: 12/16/2011)